

REMARKS

Claims 1-3, 7, 11, 16, 17, 19-23, 25-27 and 34-51 are pending. Claims 4, 5, 15, 18, and 28 to 33 were previously canceled. Claims 6, 8-10, 12-14, and 24 are currently canceled. Claims 1-3, 16, and 25-27 are currently amended. New claims 44 to 51 have been added.

Reconsideration of the application, as amended, is requested.

Support for the amendments to claims 1 and 2 can be found in the specification, for example, page 7, line 16 to page 9, line 4, which discusses methods of making nonwoven materials. Some of the methods positively recite staple fibers, and others do not. Example 3 on page 40, for example, uses a spunbond nonwoven that is free of staple fibers.

Support for the amendment to claim 3 can be found in the specification, for example, page 15, lines 20-28.

Support for the amendments to claim 42 and 43 can be found in the specification, for example, page 40, lines 12-14.

New claim 44 corresponds to claim 27 and is further supported by the specification, for example, page 26, line 18 to page 28, line 10, and in Figs. 3b and 4b.

New claims 46 to 51 correspond to claims 3, 39, 37, 16, 17, and 35, respectively. New claim 45 is supported by the specification, for example, page 40, lines 12-14.

Interview Summary

The undersigned acknowledges with appreciation the telephone interview granted by the Examiner on October 23, 2009, the substance of which is accurately described in the Interview Summary issued by the Examiner on October 29, 2009.

Claim Objections

Claim 16 was objected to because of the following informalities: Claim 16 recites the stretch ratio is "between 1.1 to 10:1". The Office Action states, "For the sake of consistency with the terms utilized in the other claims of the instant application the examiner submits the recitation would be more properly rendered - - between 1.1:1 and 10:1 - - . Appropriate correction is required."

In response, Applicants have amended claim 16 as helpfully suggested in the Office Action.

§ 103 Rejections

Claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 stand rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276). Applicants respectfully traverse the rejection insofar as it is applied to the currently amended claims.

In order to establish a *prima facie* case of obviousness of a claim, all the claim limitations must be taught or suggested by the prior art. No *prima facie* case of obviousness is established against claim 1 because the cited art fails to teach or suggest all of the claim limitations of claim 1.

Claim 1 now recites in part (i), "the fibrous web layer comprises one or more nonwoven materials *free of staple fibers*". The combination of references does not teach or suggest nonwoven materials free of staple fibers. Furthermore, U.S. 6,329,016 (Shepard et al.), cited in the Office Action against claims 39 and 41-43, does not teach or suggest nonwoven materials free of staple fibers. Moreover, Applicants submit that there is no motivation to modify the cited art to use nonwoven materials free of staple fibers. As stated in the Office Action, "Buzzell et al. do suggest the fibrous material employed to form the laminate (Figure 13a) functions as loops in a hook and loop fastener (col. 15, lines 23-27)". The Shepard et al. references are relied upon in the Office Action for providing stretchable loop material. The teachings of Shepard et al. require staple fibers to form loops; see, e.g., col. 12, lines 45-62 in U.S. 6,598,276 and col. 21, lines 11-19 in U.S. 6,329,016. Therefore, a modification of the cited art to use nonwoven materials free

of staple fibers would render the laminate of Buzzell et al. unsatisfactory for its intended purpose. According to MPEP § 2143.01 V, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."

At least for these reasons, Applicants request withdrawal of the rejection of claim 1 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276).

Claims 6, 8-10, 12-14, and 24 are currently canceled. Claims 3, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37 and 38 each depend directly or indirectly from claim 1. Claim 1 is patentable at least for the reasons given above. Thus, claims 3, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37 and 38 are likewise patentable for at least the same reasons.

Further with respect to claim 3, the Office Action states, "Buzzell et al. teach preheating the fastener and heating after stretching (Figure 1 and Figure 2)." However, Applicants submit that the cited art does not teach or suggest modifying the shape of the male fastening elements as claimed in amended claim 3. Therefore, for at least this additional reason, claim 3 is patentable over the cited art.

In summary, the rejection of claims 1, 3, 6-14, 6, 17, 19-26, 34, 35, 37 and 38 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) has been overcome and should be withdrawn.

Claims 2 and 40 are rejected under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) and de Navas Albareda (US 4,056,593). Applicants respectfully traverse the rejection insofar as it is applied to the currently amended claims.

In order to establish a *prima facie* case of obviousness of a claim, all the claim limitations must be taught or suggested by the prior art. No *prima facie* case of obviousness is established

against claim 2 because the cited art fails to teach or suggest all of the claim limitations of claim 2.

Claim 2 now recites in part (i), "the fibrous web layer comprises one or more nonwoven materials *free of staple fibers*". The combination of references does not teach or suggest nonwoven materials free of staple fibers. Furthermore, U.S. 6,329,016 (Shepard et al.), cited in the Office Action against claims 39 and 41-43, does not teach or suggest nonwoven materials free of staple fibers. Moreover, Applicants submit that there is no motivation to modify the cited art to use nonwoven materials free of staple fibers. As stated in the Office Action, "Buzzzell et al. do suggest the fibrous material employed to form the laminate (Figure 13a) functions as loops in a hook and loop fastener (col. 15, lines 23-27)". The Shepard et al. references are relied upon in the Office Action for providing stretchable loop material. The teachings of Shepard et al. require staple fibers to form loops; see, e.g., col. 12, lines 45-62 in U.S. 6,598,276 and col. 21, lines 11-19 in U.S. 6,329,016. Therefore, a modification of the cited art to use nonwoven materials free of staple fibers would render the laminate of Buzzzell et al. unsatisfactory for its intended purpose. According to MPEP § 2143.01 V, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." Claim 40 is dependent from claim 2 and is patentable at least for the reasons that claim 2 is patentable.

The rejection of claims 2 and 40 under 35 USC § 103(a) as being unpatentable over Buzzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) and de Navas Albareda (US 4,056,593) has been overcome and should be withdrawn.

Claim 27 stands rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Romanko et al. (US 6,484,371).

In order to establish a *prima facie* case of obviousness of a claim, all the claim limitations must be taught or suggested by the prior art. No *prima facie* case of obviousness has been

established against claim 27 because the cited art fails to teach or suggest claim limitations of these claims.

For example, the cited art, alone or in combination, does not teach or suggest "incorporating the portion into a backsheet of a disposable absorbent article such that the male fastening elements are exposed" as claimed in amended claim 27. While the Office Action states, "However, Romanko et al. teach cutting a precursor fastener web in the cross-direction (Figure 3a-3g; Figure 7 and 8; col. 8, lines 13-27) and utilizing a hook and fabric structure in sanitary napkins (col. 11, lines 44- 47)", the cited portions of Romanko et al. do not describe at least "incorporating the portion into a backsheet of a disposable absorbent article". It is unclear from the Office Action how Romanko et al. teaches or suggests "incorporating the portion of the stretched mechanical fastening web laminate *into the backsheet* of a disposable absorbent article" as claimed in amended claim 27.

Furthermore, the Office Action does not provide a sufficient rationale for modifying Buzzell et al. to incorporate a portion of the stretched mechanical fastening web laminate into the backsheet of a disposable absorbent article. Applicants submit that the modification would render the touch fastener of Buzzell et al. unsatisfactory for its intended purpose. According to MPEP § 2143.01 V, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." As stated in the Office Action, "Buzzell et al. do suggest the fibrous material employed to form the laminate (Figure 13a) functions as loops in a hook and loop fastener (col. 15, lines 23-27)". Amended claim 27 now recites that the method further comprises incorporating the portion of the stretched mechanical fastening web laminate into a backsheet of a disposable absorbent article such that the male fastening elements are exposed *and the fibrous web layer is not exposed*. Since the purpose of Buzzell et al. is to form a touch fastener with hooks on one side and loops on the other, it would be contrary to this purpose to incorporate the stretched mechanical fastening web laminate into a backsheet of a disposable absorbent article. In such a construction, the nonwoven fabric would not be exposed, and therefore no loops would be exposed.

For at least the reasons given above, the rejection of claim 27 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US

5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Romanko et al. (US 6,484,371) has been overcome and should be withdrawn.

For at least these same reasons, new claim 44 and claims 45-51, which depend directly or indirectly from claim 44, are patentable over the cited references.

Claim 36 is rejected under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Song et al. (US 5,534,215) or Gebler et al. (US 3,324,218).

Applicants traverse the rejection at least for the reason that claim 36 is indirectly dependent from claim 1. Amended claim 1 is patentable at least for the reasons described above. Neither Song et al. nor Gebler et al. teach or suggest nonwoven materials free of staple fibers. And neither Song et al. nor Gebler et al. provide motivation to modify the cited combination to use nonwoven materials free of staple fibers.

For at least these reason, the rejection of claim 36 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Song et al. (US 5,534,215) or Gebler et al. (US 3,324,218) has been overcome and should be withdrawn.

Claims 39 and 42 are rejected under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Shepard et al. (US 6,329,016).

Applicants traverse the rejection at least for the reason claims 39 and 42 are dependent from claim 1. Amended claim 1 is patentable at least for the reasons described above. As stated above, Shepard et al. (US 6,329,016) does not teach or suggest nonwoven materials free of staple

fibers and does not provide motivation to modify the cited combination to use nonwoven materials free of staple fibers.

Furthermore, with respect to claim 42, the cited art does not disclose one or more nonwoven materials that is "point bonded or continuous bonded using at least one of heat or pressure". Point bonding or continuous bonding of, for example, spunbond materials is generally understood in the art to refer to a bonding step after the continuous fibers are laid down.

At least for the reasons given above, the rejection of claims 39 and 42 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35, 37 and 38 above and further in view of Shepard et al. (US 6,329,016) has been overcome and should be withdrawn.

Claims 41 and 43 are rejected under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) and de Navas Albareda (US 4,056,593), as applied to claims 2 and 40 above and further in view of Shepard et al. (US 6,329,016).

Applicants traverse the rejection at least for the reason claims 41 and 43 are dependent from claim 2. Amended claim 2 is patentable at least for the reasons described above. As stated above, Shepard et al. (US 6,329,016) does not teach or suggest nonwoven materials free of staple fibers and does not provide motivation to modify the cited combination to use nonwoven materials free of staple fibers.

Furthermore, with respect to claim 43, the cited art does not disclose one or more nonwoven materials that is "point bonded or continuous bonded using at least one of heat or pressure". Point bonding or continuous bonding of, for example, spunbond materials is generally understood in the art to refer to a bonding step after the continuous fibers are laid down.

At least for the reasons given above, the rejection of claims 41 and 43 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference and in view of Shepard et al. (US 6,598,276) and de Navas Albareda (US 4,056,593), as applied to claims 2 and 40 above and further in view of Shepard et al. (US 6,329,016) has been overcome and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance.
Examination and reconsideration of the application, as amended, is requested.

Respectfully submitted,

November 16, 2009

Date

By: /Kathleen B. Gross/

Kathleen B. Gross, Reg. No.: 56,676

Telephone No.: 651-737-4757

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833